

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE CONSIDERATION)
OF THE NEW PURPA STANDARDS AS SET)
FORTH IN THE ENERGY POLICY ACT OF)
2005)**

**ORDER FOR AND NOTICE
OF WORKSHOP**

EL06-018

On August 8, 2005, the Energy Policy Act of 2005 ("EPAAct 2005") was signed into law. Certain provisions in the EPAAct 2005 amend the Public Utility Regulatory Policies Act ("PURPA") of 1978. The EPAAct 2005 adds five new federal standards to PURPA. The five standards regard net metering, fuel diversity, fossil fuel generation efficiency, smart metering, and interconnection for distributed resources. Under the EPAAct 2005, the Public Utilities Commission (Commission) has varying timelines within which to consider these standards and determine whether to adopt them.

At its May 23, 2006, meeting, the Commission considered how to proceed with the consideration of the new PURPA standards. The Commission sought comments from interested persons or entities on how to proceed. The Commission requested that interested persons or entities comment on the following questions: 1) Which electric utilities operating in South Dakota are affected by the standards and are subject to the Commission's jurisdiction? 2) Should the Commission open a docket for each utility or open a generic docket encompassing all of the affected utilities? 3) Should the Commission combine all of the standards, some of the standards, or have separate dockets for each standard? 4) Should the Commission hold evidentiary hearings with direct testimony and cross-examination? 5) If the Commission decides to implement any of the standards, should it do so through a rulemaking? 6) With respect to the net metering standard, should the Commission find it is not required to consider this standard given that the Legislature has already considered net metering in a past legislative session? Interested persons or entities were also allowed to submit comments on any other issues related to how the Commission should proceed with its consideration of these standards. Written comments were due on or before June 20, 2006.

At its July 11, 2006, meeting, the Commission considered these issues. The Commission has jurisdiction over this matter pursuant to SDCL chapter 49-34A, specifically 49-34A-93, and the EPAAct 2005. With respect to net metering, the Commission found that it will not consider the net metering standard. The Commission noted that the Legislature has already considered the implementation of net metering and has rejected any such implementation in past legislative sessions. Pursuant to section 112(d) (3) of PURPA, the obligation to consider the net metering standard does not apply if "the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility."

The Commission further found that the affected utilities are the rate regulated investor owned utilities. The Commission also decided that this docket will encompass all of the affected utilities and will address all of the remaining standards. In addition, the Commission determined that it would decide what type of hearings to hold and whether to implement any standards through a rulemaking after the intervention deadline.

The Commission set an intervention deadline of August 15, 2006. On August 11, 2006, the Commission received a Petition to Intervene from MidAmerican Energy Company (MidAmerican). On August 14, 2006, the Commission received a Petition to Intervene from Itron, Inc. (Itron). On August 15, 2006, the Commission received Petitions to Intervene from NorthWestern Corporation

d/b/a NorthWestern Energy (NWE), Northern States Power Company d/b/a Xcel Energy (Xcel) and Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc. (MDU). On August 17, 2006, the Commission received a Petition to Intervene from Otter Tail Corporation d/b/a Otter Tail Power Company (OTP) and a Petition for Late Filed Intervention from Black Hills Power, Inc. (BHP). By order dated September 11, 2006, the Commission granted intervention to MidAmerican, Itron, NWE, Xcel, MDU, OTP and BHP.

At its November 14, 2006, the Commission considered how to proceed. The Commission decided to ask for written comments from the parties regarding the standards and then conduct workshops to further study whether to implement the standards. The Commission requested that the parties file the comments on or before January 9, 2007. On January 9, 2007, the Commission received comments from Otter Tail, MidAmerican, and BHP.

The Commission will hold a workshop on May 1, 2007, to further discuss the standards. The workshop will begin at 9:00 A.M. (CDT) in Room 412 of the State Capitol, Pierre, South Dakota. Presentations will be made regarding the standards. An agenda listing the presenters will be issued at a later date.

It is therefore

ORDERED, that a workshop will be held at the time and place set forth above.

Dated at Pierre, South Dakota, this 13th day of April, 2007.

<p align="center">CERTIFICATE OF SERVICE</p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.</p> <p>By: <u>Adaine Kolbeck</u></p> <p>Date: <u>4/13/07</u></p> <p align="center">(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION:

Dustin M. Johnson
DUSTIN M. JOHNSON, Chairman *dk*

Gary Hanson
GARY HANSON, Commissioner

Steve Kolbeck
STEVE KOLBECK, Commissioner